

**DURHAM, NORTH CAROLINA  
MONDAY, AUGUST 16, 1999  
7:30 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chamber at City Hall with the following members present: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Absent: Council Member Jacobs.

Also present: City Manager P. Lamont Ewell, City Attorney Henry Blinder, City Clerk Margaret M. Bowers and Deputy City Clerk D. Ann Gray.

Mayor Tennyson called the meeting to order and at this time, Council Member Miller requested that the following item be added to the agenda:

**SUBJECT: DGM MAXIMUS - CITY/COUNTY MERGER STUDY**

**MOTION** by Council Member Larson seconded by Council Member Miller to add to the agenda DGM Maximus [approval of funding for project facilitator] was approved at 7:32 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

Mayor Tennyson asked for priority items from the City Manager, City Attorney and City Clerk. [No priority items]

The Mayor asked if any council member(s) or citizen(s) wanted to pull any item(s) from the Consent Agenda for discussion later in the meeting. There were no items pulled from the Consent Agenda.

**MOTION** by Council Member Larson seconded by Council Member Miller to approve the Consent Agenda as printed was approved at 7:34 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**[CONSENT AGENDA]**

**SUBJECT: PRIVATE SALE OF PROPERTY AT 859 ESTES STREET TO MARSHALL E. WILLIAMS (SOUTHWEST CENTRAL DURHAM REVITALIZATION)**

**MOTION** by Council Member Larson seconded by Council Member Miller

to accept the offer of \$80,000 from Marshall E. Williams to purchase the property at 859 Estes Street, City Tract #1839 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: CALENDAR YEAR 2000 BENEFITS RECOMMENDATIONS**

a. Fully Insured Point of Service Health Care Plans

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a contract with Healthsource for a fully insured point of service health care plan was approved at 7:34 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a contract with WellPath for a fully insured point of service health care plan was approved at 7:34 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

b. Self Funded Dental Care Plan

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a contract with Delta Dental to provide third party administration services for the self funded dental care plan was approved at 7:34 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

c. Mental Health and Substance Abuse Care Plan

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a contract with Duke Occupational Mental Health Programs to provide Employee Assistance Program (EAP) services for third party administration services for the self funded mental health and substance abuse care plan was approved at 7:34 p.m. by the following vote: Ayes: Mayor

Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

d. Group Term Life Insurance

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a contract with Metropolitan Life Insurance Company to provide group term life insurance was approved at 7:34 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

e. Disability, Cancer, Critical Illness, Long Term Disability and Other Voluntary, Employee Paid Insurance Plans

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a contract with Colonial Life Insurance Company to provide for the administration of the Flexible Spending Accounts and provide disability, cancer, critical illness, long term disability and other voluntary, employee paid insurance plans was approved at 7:34 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

f. Property and Casualty Insurance

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a contract with MetLife to provide property and casualty insurance was approved at 7:34 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: POLICE DEPARTMENT'S QUARTERLY STATUS REPORT AND THE CITY OF DURHAM'S SEVEN POINT CRIME REDUCTION INITIATIVE QUARTERLY REPORT**

**MOTION** by Council Member Larson seconded by Council Member Miller to receive the combined Police Department's Quarterly Status Report and the City of Durham's Seven Point Crime Reduction

Initiative Quarterly Report for the Second Quarter of Calendar Year 1999 (April 1, 1999 through June 30, 1999) was approved at 7:34 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: RESOLUTION MEMORIALIZING JAMES FARMER**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a "Resolution by the Durham, N.C. City Council Memorializing James Farmer" was approved at 7:34 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: RESOLUTION IN APPRECIATION OF THOSE PLANNING,  
VOLUNTEERING AND PARTICIPATING IN THE 1999 SPECIAL  
OLYMPICS**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a "Resolution in Appreciation of Those Planning, Volunteering and Participating in the 1999 Special Olympics" was approved at 7:34 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: LEAD PAINT AND ASBESTOS REMOVAL CONTRACT FOR THE FUTURE  
SOLID WASTE ADMINISTRATIVE BUILDING, CONTAMINANT CONTROL,  
INC. (OLD CITY INCINERATOR)**

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to enter into a contract with Contaminant Control, Inc. in the amount of \$180,400 with a \$10,000 contingency, for lead paint and asbestos removal at the future Solid Waste Administrative Building; and

To authorize the City Manager to modify the contract before execution, provided the modifications do not increase the dollar amount of the contract and these modifications are consistent with the general intent of the existing version of the contract was approved at 7:34 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member

Jacobs.

**SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH DONALD W. YOUNG  
CONSTRUCTION COMPANY, INC. - EAST CLUB BOULEVARD**

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to enter into a Water and Sewer Extension Agreement with Donald W. Young Construction Company, Inc. to extend City water and sewer to the northeast corner of East Club Boulevard and Glenn Road to serve an office building was approved at 7:34 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: MUNICIPAL AGREEMENT WITH NORTH CAROLINA DEPARTMENT OF  
TRANSPORTATION FOR IMPROVEMENTS TO THE INTERSECTION OF  
GARRETT ROAD AND CHAPEL HILL ROAD/UNIVERSITY DRIVE**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a resolution authorizing the City Manager execute a Municipal Agreement (Project U-3105) with North Carolina Department of Transportation for improvements to the intersection of Garrett Road and Chapel Hill Road/ University Drive was approved at 7:34 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: BIDS - ESTIMATED ANNUAL REQUIREMENTS FOR GASOLINE  
PETROLEUM TRADERS CORPORATION - (467,000 GALLONS)**

**MOTION** by Council Member Larson seconded by Council Member Miller to accept the bid from Petroleum Traders Corporation in the amount of \$309,947.90 for furnishing the City with its estimated annual requirements for gasoline was approved at 7:34 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: CITY COUNCIL MINUTES - CITY CLERK'S OFFICE**

**MOTION** by Council Member Larson seconded by Council Member Miller to approve the official minutes of the regular City Council

Meeting of Monday, July 19, 1999 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**[GENERAL BUSINESS AGENDA]**

**[PUBLIC HEARINGS]**

**SUBJECT: Water Main - North Woodrest Street** from Rochelle Street to South Property Line of Tax Map 378-2-4

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a resolution confirming the assessment roll for water main on North Woodrest Street from Rochelle Street to south property line of Tax Map 378-2-4 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: Water Main - Clayton Road** from N.C. 98 to Judy Avenue

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a resolution confirming the assessment roll for water main on Clayton Road from N. C. 98 to Judy Avenue was approved at 7:35 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: Sewer Main - Kinloch Drive** from Kinloch Drive Outfall to Latta Road and **Latta Road** from Kinloch Drive to Womack Drive

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no

objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a resolution confirming the assessment roll for sewer main on Kinloch Drive from Kinloch Drive Outfall to Latta Road and Latta Road from Kinloch Drive to Womack Drive was approved at 7:35 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: Sewer Main - Holloway Street** from Adams Street to Woodcrest Street

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a resolution confirming the assessment roll for sewer main on Holloway Street from Adams Street to Woodcrest Street was approved at 7:36 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: Sewer Main - Edgerton Drive** from Ed Cook Road to West Property Line of Tax Map 566-2-1

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a resolution confirming the assessment roll for sewer main on Edgerton Drive from Ed Cook Road to west property line of Tax Map 566-2-1 was approved at 7:36 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: Sewer Main - East End Avenue** from West Property Line Tax Map 372, Block 1, Parcel 1A to East Property Line Tax Map

372, Block 1, Parcel 1A

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a resolution confirming the assessment roll for sewer main on East End Avenue from west property line Tax Map 372, Block 1, Parcel 1A to east property line Tax Map 372, Block 1, Parcel 1A was approved at 7:36 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: Sewer Main - Oakview Street** from Pennock Road to west Property Line Tax Map 636-8-15

Due to an objection, Lee Murphy of the Public Works Department, requested that the property of Bobby Shepherd be referred to the Public Works Committee for further consideration.

As this was the time and place set for the public hearing, anyone was given the opportunity to be heard. There being no further objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a resolution confirming the assessment roll for sewer main on Oakview Street from Pennock Road to west property line Tax Map 636-8-15 and to refer the property of Bobby Shepherd to the Public Works Committee for further consideration was approved at 7:37 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: Water Main - Oakview Street** from Pennock Road to west property line Tax Map 636-8-15

Due to an objection, Lee Murphy of the Public Works Department, requested that the property of Bobby Shepherd be referred to the Public Works Committee for further consideration.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no further objections and/or allegations, the public hearing was



declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a resolution confirming the assessment roll for water main on Oakview Street from Pennock Road to west property line Tax Map 636-8-15 and to refer the property of Bobby Shepherd to the Public Works Committee for further consideration was approved at 7:38 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: Sewer Main - Cheek Road** from Cheek Road Outfall to Harvest Street

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a resolution confirming the assessment roll for sewer main on Cheek Road from Cheek Road Outfall to Harvest Street was approved at 7:38 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: Sewer Main - East Rockway Street** from the South Property Line of Tax Map 470-2-5 to the South Property Line of Tax Map 740-1-7 under the Enabling Act Authority

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a resolution ordering sewer main improvements on East Rockway Street from the south property line of Tax Map 470-2-5 to the south property line of Tax Map 740-1-7 under the Enabling Act Authority was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: STREET CLOSING - EXCHANGE PLACE**

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a City of Durham Order Permanently Closing 2.63± Acres of Exchange Place was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: PROPOSAL TO LIMIT APPROVALS OF MAJOR DEVELOPMENTS IN THE VICINITY OF INTERSTATE 40 AND NC 54 WEST OF RESEARCH TRIANGLE PARK**

To receive citizens comments on "An Ordinance Concerning Applications for Certain Development Activities Within the Vicinity of Interstate 40 and NC 54 West of Research Triangle Park."

To adopt "An Ordinance Concerning Applications for Certain Development Activities Within the Vicinity of Interstate 40 and NC 54 West of Research Triangle Park."

Mayor Tennyson opened the public hearing.

The following individuals spoke in support of this ordinance: Stanley Ray Hoffman; Stacy Miller; Brian Morton; Tad Kleindienst; Pat Bocckino; Jim McDonald; Carl Rist; Thad Howard; Pete Schubert; Ed Harrison; and Milo Pyne.

Kennon Borden asked that projects that have already been submitted for rezonings, prior to this public hearing, be excluded from the moratorium and be allowed to proceed to City Council for a vote. Also, Mr. Borden stated that he would like to see site plans for projects that have already been approved be excluded.

Ron Horvath raised concern whether the moratorium being proposed would encompass site plan approval.

Attorney Travis Porter spoke in opposition to the language in the ordinance referencing the denial of site plans or site plan review even when TIA's are not required but have already been approved.

Attorney Ken Spaulding requested that projects already in the

process not be penalized, but be allowed to move forward.

The public hearing was closed by the Mayor.

Council Member Cox asked the administration the completion date for the six-month TDM study and the 2025 Comprehensive Transportation Plan.

Bonnie Estes, of the City/County Planning Department, stated the study is scheduled to be completed within the year 2000.

Mark Ahrendsen, of the Transportation Division, noted a draft of the 2025 Transportation Plan would be available by October or November.

Bonnie Estes also noted that the I-40 Corridor Study Plan [Land Use Plan] would probably take about 12 months to complete.

The following motion was made by Council Member Cox:

Section 1. For the period of August 16, 1999 to February 7, 2000 no development applications located within the area defined on the map titled "I-40/NC 54 Study Area" attached to this ordinance shall be placed on the agenda of the City Council for consideration if the proposals require a Traffic Impact Analysis [TIA]. Furthermore, for the time period of August 16, 1999 through November 15, 1999, no new applications submitted or filed with the City of Durham shall be reviewed by staff and no new applications shall be placed on the City Council agenda for consideration. Such development approvals include, but are not limited to, requests for the approval major site plans, use permits, and rezonings in which the project is anticipated to generate more than 300 peak hours trips and served by a street operating below the City's established level of service.

Council Member Engelhard seconded Mr. Cox's motion.

Council Member Larson asked how the adoption of the TDM strategy would impact the site plan if the site plan is on a development plan \_\_\_\_\_.

Bonnie Estes stated the ordinance is written so that site plans would be affected - "any site plan requiring a TIA would be delayed."

Council Member McKissick requested a friendly amendment to the motion - "delete from the ordinance major site plans." Also, Council Member McKissick spoke in support of a public facility ordinance.

Council Member Cox accepted the amendment by Council Member McKissick.

For clarification, Mayor Tennyson stated the language "major site plans" is being deleted from the motion.

City Attorney Blinder noted if it was the intent of Council to exclude from the moratorium the major site plans referred to by Council Members Cox and McKissick, then it should be also be excluded from the first sentence [no development applications other than major site plans].

Mayor Pro Tempore Clement asked if the council can exclude from the motion Case P99-22 [Kennon Borden] and allow the case to proceed.

City Attorney Blinder stated it would be better not to exempt properties by name but rather by zoning application/category.

At this time, Mr. Kennon Borden stated he felt comfortable they would not lose control of the property and be able to bring the project back before the City Council.

Council Member Brown spoke in support of the motion as printed on the agenda [six-month moratorium]. Also, Council Member Brown spoke in support of development in other areas of the city which are undeveloped.

A substitute motion was made by Council Member Burnette to delay moratorium until the traffic studies are completed. Motion failed due to the lack of a second.

Council Member Blyth noted that the County did pass this ordinance as printed on the agenda including the reference to site plans and the Council should support the moratorium as outlined on the agenda. Council Member Blyth stated that the projects already in the process are the ones that could be a problem if they do not have the recommendations from the traffic studies. Council Member Blyth stated she would like to see the staff spend some time working on revising plans and finalizing the studies. Also, Council Member Blyth spoke on the lack of development in other areas of Durham.

Several Council Members spoke in support of Council Member Cox's motion.

**SUBSTITUTE MOTION** by Council Member Blyth seconded by Council Member Miller to approve "An Ordinance Concerning Applications for Certain Development Activities Within the Vicinity of Interstate 40 and NC 54 West of Research Triangle Park" [as printed on the agenda]; and not grandfather any development **FAILED** at 9:36 p.m. by the following vote: Ayes: Council Members Blyth, Brown, Engelhard, Griffin and Miller. Noes: Mayor Tennyson, Mayor Pro

Tempore Clement and Council Members Langley, Burnette, Cox, McKissick and Larson. Absent: Council Member Jacobs.

**MOTION** by Council Member Cox seconded by Council Member Engelhard to receive citizens comments on "An Ordinance Concerning Applications for Certain Development Activities Within the Vicinity of Interstate 40 and NC 54 West of Research Triangle Park"; and

To adopt "An Ordinance Concerning Applications for Certain Development Activities Within the Vicinity of Interstate 40 and NC 54 West of Research Triangle Park" as amended was approved at 9:37 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: Council Members Brown and Burnette. Absent: Council Member Jacobs.

**SUBJECT: ZONING MATTER CASE P99-24, CROSLAND, 5000, 5016 AND 5110 OLD CHAPEL HILL ROAD BETWEEN WATKINS ROAD AND MT. MORIAH ROAD**

Case: P99-24 (Continued from the August 2, 1999 City Council Meeting)

Applicant: Crosland

Location: 20.21-acre site at 5000, 5016, and 5110 Old Chapel Hill Road between Watkins Road and Mt. Moriah Road, identified as Tax Map 483, Block 1, Lot 11, 12, and 12A

Request: Rezoning from R-20 (Residential 20 District); (F/J-B, MTC) to RM-12(D) (Apartment Residential at 12 Units per Acre with a Development Plan); (F/J-B, MTC)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20; (F/J-B, MTC) and placing same in and establishing same as RM-12(D); (F/J-B, MTC)

Zoning Committee's Recommendation and Vote: Approval (7-0)

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Attorney Jack Markham, representing the applicant, spoke in support of this request.

No one spoke in opposition. Mayor Tennyson closed the public hearing.

Nazeeh Abdul-Hakeem, of the City/County Planning Department, asked

the applicant to state the two development notes agreed upon regarding Thomas Drive and the bicycle path.

Attorney Jack Markham stated note number three on the plan states: "the proposed access road [the southern most 900 feet] will be constructed north of Old Chapel Hill Road to a turn that is located approximately 225 feet north of the southern most driveway prior to the issuance of any certificates of completion by the City of Durham."

Council Member Engelhard asked if the applicant was willing to construct a 10 foot wide asphalt pedestrian bicycle trail separated from Thomas Drive.

Attorney Markham replied yes.

For clarification, the Mayor noted the applicant has agreed to offer in lieu of a sidewalk an asphalt path that is separated from Thomas Drive.

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Larson to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20; (F/J-B, MTC) and placing same in and establishing same as RM-12(D); (F/J-B, MTC) was approved at 9:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: ZONING MATTER CASE P99-6, SHIRLEY A. DUEHRING, CORNER OF  
ROCKWAY AVENUE AND NORTH ROXBORO ROAD**

Case: P99-6

Applicant: Shirley A. Duehring

Location: The .45 acre site is located at the corner of Rockway Avenue and North Roxboro Road (Tax Map 740, Block 1, Lot 1)

Request: Rezoning from OI-2 (General Office and Institutional) to NC(D) (Neighborhood Commercial with a Development Plan) (F/J-B)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of OI-2 and placing same in and establishing same as NC(D); (F/J-B).

Zoning Committee's Recommendation and Vote: Approval (6-1)

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone

interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of OI-2 and placing same in and establishing same as NC(D); (F/J-B) was approved at 9:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: ZONING MATTER CASE P99-7, TRI-CENTER SOUTH, WEST OF CORNWALLIS ROAD, NORTH OF NORTHEAST CREEK PARKWAY**

Case: P99-7

Applicant: Tri-Center

Location: 5.69 acres at Tri-Center South, west of Cornwallis Road, north of Northeast Creek Parkway (Tax Maps 569-1-26A; 570-1-1A, 1C; 570-2-13, 14

Request: Rezoning from I-2(D) (Light Industrial District with a Development Plan) and R-20 (Residential 20) to I-2(D) (Light Industrial District with a Development Plan)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of I-2(D) and R-20 and placing same in and establishing same as I-2(D).

Zoning Committee's Recommendation and Vote: Approval (7-0)

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Bob Peter, representing the applicant, spoke in support of the request.

No one spoke in opposition. The public hearing was closed by the Mayor.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of I-2(D) and R-20 and placing same in and establishing same as I-2(D) was approved at 9:50 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement

and Council Members Brown, Burnette, Cox, Griffin, Langley, Larson, McKissick and Miller. Noes: Council Members Blyth and Engelhard. Absent: Council Member Jacobs.

**SUBJECT: ZONING MATTER CASE P99-28, BCR&S ASSOCIATES, NORTHWEST  
CORNER OF THE INTERSECTIN OF BRUNSON STREET AND SOUTH  
MIAMI BOULEVARD**

Case: P99-28

Applicant: BCR&S Associates

Location: 1.59 acre tract located at the northwest corner of the intersection of Brunson Street and South Miami Boulevard (Tax Map 645, Block 1, Lot 6A)

Request: Rezoning from NC (Neighborhood Commercial) to I-2(D) (Light Industrial District with a Development Plan)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of NC and placing same in and establishing same as I-2(D).

Zoning Committee's Recommendation and Vote: Approval (7-0)

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Jim Hedrick, representing the applicant, spoke in support of the request.

No one spoke in opposition. The public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of NC and placing same in and establishing same as I-2(D) was approved at 9:53 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: MAJOR SPECIAL USE PERMIT FOR TRAFFIC IMPACT ANALYSIS -  
PARKER LINCOLN DEVELOPERS (T98-2)**

To hold the public hearing and evaluate the evidence presented. The Planning staff will make a recommendation after the hearing of



this case. After the hearing, one of these two motions is in order:

**Motion A: (Approval With or Without Conditions)** - To direct the Planning Director to prepare a decision granting, with conditions, the Use Permit in Case T98-2. (Council should identify any conditions they wish to incorporate into their approval. Staff will prepare the decision for Council's action.)

**Motion B: (Disapproval)** - To direct the Planning Director to prepare a decision denying the Use Permit in Case T98-2. (Council should identify the findings they are unable to make so these can be incorporated into the decision. Staff will prepare the decision for Council's next meeting for action.)

City Clerk Bowers swore in the following individuals: Earl Lewellyn; Mark Ahrendsen; Owen Synan; Helen Youngblood; and Toler Workman.

Mayor Tennyson explained the proceedings for a major special use permit hearing.

The Mayor asked Council to reveal any possible conflicts and to withdraw from the hearing if necessary. Also, Mayor Tennyson asked if any Council Member had been exposed to any evidence or information that may not come out at the hearing tonight.

The Mayor asked the applicant and representative for the opponents to identify themselves: 1) Attorney Toler Worksman, representing Parker Lincoln Developers.

There were no opponents present.

Mayor Tennyson opened the hearing on this major use permit.

#### **Testimony from Staff**

Helen Youngblood, of the City/County Planning Department, briefed council on the location of the property; the current zoning; surrounding zoning; the proposed project; total acreage; main access to the parcel; parking and internal circulation. Ms. Youngblood noted that the staff report is accurate and asked that it be admitted as evidence.

Earl Lewellyn, of the Transportation Division, noted that the memorandum attached is accurate as presented for inclusion in the record.

The Mayor asked if there were any questions from the Council, the applicant or any other interested parties.

### **Testimony from the Applicant**

Attorney Toler Workman, representing the applicant, provided council with color-coded maps. Attorney Workman briefed council on the project being proposed. Also, Attorney Workman requested that the maps be entered as evidence into the record.

The Mayor asked if there were questions from the Council or any other interested parties.

Council Member Larson asked if all staff conditions have been met.

Helen Youngblood, of the City/County Planning Department, noted all conditions have been agreed to and have been included on the plans.

Earl Lewellyn, of the Transportation Division, noted that the TIP project will begin construction in 2003 and the improvements to be implemented as a part of this project at the intersection of Miami and Alexander will need to be coordinated with the NCDOT widening project.

Helen Youngblood provided Council with an order requesting one minor change to condition #12 - "At such time as Durham Area Transit Authority (DATA) or TTA initiates transit service to this area, the developer should coordinate with DATA or TTA to locate two bus pullouts with associated amenities."

Ms. Youngblood stated that the staff recommended approval of the order as amended.

A motion was made by Council Member McKissick to approve an order as amended granting a Major Special Use Permit. This motion was seconded by Council Member Blyth.

The public hearing was declared closed.

**MOTION** by Council Member McKissick seconded by Council Member Blyth to adopt an Order as amended, granting upon certain conditions, a Major Special Use Permit [Transportation Impact Analysis for Case T98-2] was approved at 10:13 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

### **[OTHER MATTERS]**

**SUBJECT: SITE PLAN APPROVAL - LINCOLN PARK WEST, BUILDING 103  
PHASE B**

Steve Medlin, of the City/County Planning Department, noted that the plan submitted complies with the Resource Protection Ordinance.

**MOTION** by Council Member Larson seconded by Council Member Miller to approve a site plan for Lincoln Park West, Building 103 Phase B, submitted by Philip Post & Associates, consisting of a 45,532 square foot retail and office building proposed on 21.694 acres, zoned SC, located on the east side of South Miami Boulevard, south of Lumley Road and north of T. W. Alexander Drive (Tax Map 577A-1-6) was approved at 10:14 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: SITE PLAN APPROVAL - LINCOLN PARK WEST, BUILDING 103  
PHASE B**

**MOTION** by Council Member Larson seconded by Council Member Miller to approve a site plan for Lincoln Park West, Building 105, submitted by Kimley-Horn and Associates, consisting of an 86,614 square foot office and warehouse building proposed on 16.7 acres, zoned I-2, located on the east side of South Miami Boulevard, south of Lumley Road and north of T. W. Alexander Drive (Tax Map 577A-1-23) was approved at 10:14 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: SITE PLAN APPROVAL - LINCOLN PARK WEST, BUILDING 203**

**MOTION** by Council Member Larson seconded by Council Member Miller to approve a site plan for Lincoln Park West, Building 203, submitted by Philip Post & Associates, consisting of a 46,200 square foot office and warehouse building proposed on 23.4 acres, zoned I-2, located on the east side of South Miami Boulevard and Presidential Drive, south of Lumley Road and north of T. W. Alexander Drive (Tax Map 577A-1-22) was approved at 10:14 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: TAXICAB INSPECTOR'S REPORT**

To receive a report from the Taxicab Inspector and to take action on the following recommendations of the Taxicab Inspector pursuant to Section 22.159.10 of the Durham City Code.

Transfer of Operator's Licenses - [Recommended for Approval by the Taxicab Inspector pursuant to Section 22-98 of the Durham City Code]

Alfred Clark spoke in opposition to transferring the operator's license of Canaday's Cab, Inc. #167 to Mouawya M. Elhassan.

Mark Ahrendsen, of the Transportation Division, stated the application for the transfer has been made in accordance with the current ordinance. He noted there was no provision which would prohibit the transfer. Also, Mr. Ahrendsen noted the issue of a time period associated with a transfer will be considered by the Taxicab Subcommittee as a possible amendment to the new ordinance.

- a. J.C.'s Cab Company #166 from Johnsie Carrington/Robert Burton to Abdulraouf Ali;
- b. Canaday's Cab, Inc. #167 to Mouawya M. Elhassan;
- c. Mike's Cab Company #185 from Michael Tillman to Husam M. Hasanin;
- d. Sunbeam Cab Company #72 from Merike Torain to Yousif El-Hussein; and
- e. Star Cab Company #143 from Anne Dixon to Husam M. Hasanin.

A motion was made by Mayor Pro Tempore Clement to approve the transfer of operator's licenses for Items a-e. This motion was seconded by Council Member Larson.

A substitute motion was made by Council Member Engelhard to approve the transfer of operator's licenses for Items a; c; d; and e and to deny the transfer of Canaday's Cab #167; and to recommend to the Taxicab Subcommittee to review the time period associated with transfers. This motion was seconded by Council Member Cox.

**SUBSTITUTE MOTION TO THE SUBSTITUTE** by Council Member Blyth seconded by Council Member Brown to defer all sales including items [a-e] for 90 days and refer to the Taxicab Sub-Committee **FAILED** at 10:34 p.m. by the following vote: Ayes: Council Members Blyth, Brown, Burnette, Cox and Engelhard. Noes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Langley, McKissick, Larson, Miller and Griffin. Absent: Council Member Jacobs.

**SUBSTITUTE MOTION** by Council Member Engelhard seconded by Council

Member Cox to approve the transfer of operator's licenses for Items a; c; d; and e and to deny transfer of Canaday's Cab #167; and to request the Taxicab Subcommittee to review the time period associated with transfers **FAILED** at 10:34 p.m. by the following vote: Ayes: Council Members Blyth, Cox, Engelhard and Griffin. Noes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Brown, Burnette, Langley, McKissick, Larson and Miller. Noes: Council Member Jacobs.

At this time, a request was made to sever the original motion.

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Larson to approve the transfer of operator's licenses for Items a; c; d; and e was approved at 10:35 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Larson to approve the transfer of operator's license for Canaday's Cab, Inc. #167 to Mouawya M. Elhassan was approved at 10:36 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Brown, Griffin, Langley, Larson, McKissick and Miller. Noes: Council Members Burnette, Cox, Engelhard and Blyth. Absent: Council Member Jacobs.

**SUBJECT: PRELIMINARY APPROVAL - REBUILD DURHAM, INC. HOME PROJECT**

To give preliminary approval to an allocation of FY99-00 HOME funds to REBUILD Durham, Inc. in the total amount of up to \$507,700 to provide partial funding for the acquisition/rehabilitation and permanent financing of 12 rental housing units for permanent rental housing for families with average incomes at or below 60% median income, and including a CHDO Operating Grant of up to \$47,700, subject to receipt by the City from HUD of the FY 99-00 HOME Program Allocation.

A motion was made by Council Member Larson to approve the item as printed on the agenda. This motion was seconded by Council Member Miller.

Council Member Cox raised concern that there was not a request for proposal process for the existing organizations.

A motion was made by Council Member Cox to direct the staff to obtain request for proposals for a 12 unit rental housing unit for permanent rental housing for families with average incomes at or below 60% of median income. The motion was seconded by Council Member Burnette.

Mark Pierce, representing Rebuild Durham, spoke in support of the motion as printed on the agenda.

Several Council Members spoke in support of the motion as printed on the agenda.

**SUBSTITUTE MOTION** by Council Member Cox seconded by Council Member Burnette to direct the staff to obtain request for proposals for a 12 unit rental housing unit for permanent rental housing for families with average incomes at or below 60% of median income **FAILED** at 10:49 p.m. by the following vote: Ayes: Council Members Burnette and Cox. Noes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Absent: Council Member Jacobs.

**MOTION** by Council Member Larson seconded by Council Member Miller to give preliminary approval to an allocation of FY99-00 HOME funds to REBUILD Durham, Inc. in the total amount of up to \$507,700 to provide partial funding for the acquisition/rehabilitation and permanent financing of 12 rental housing units for permanent rental housing for families with average incomes at or below 60% median income, and including a CHDO Operating Grant of up to \$47,700, subject to receipt by the City from HUD of the FY 99-00 HOME Program Allocation was approved at 10:49 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Jacobs.

**SUBJECT: REPORT FROM ADMINISTRATION CONCERNING THE REMOVAL OF A TREE LOCATED AT 406 DUNSTAN STREET**

To receive a report and recommendation from the Administration concerning the removal of a tree located at 406 Dunstan Street.

**Note:** At the August 12, 1999 Committee-of-the-Whole Meeting, the City Council voted to refer this item to the administration to allow the staff to develop a street tree policy.

**[ITEM ADDED TO THE AGENDA]**

**SUBJECT: DMG MAXIMUS - CITY/COUNTY MERGER STUDY**

**MOTION** by Council Member Miller seconded by Council Member Larson authorize manager to enter into a contract with Durham County and DMG MAXIMUS [as project facilitator] for the City/County Merger Study and to approve funding in the amount of \$37,050 as the

city's share was approved at 10:53 p.m. by the following vote:  
Ayes: Mayor Tennyson and Council Members Blyth, Brown, Burnette,  
Cox, Engelhard, Griffin, Langley, Larson, McKissick and Miller.  
Noes: Mayor Pro Tempore Clement. Absent: Council Member Jacobs.

There being no further business to come before the Council, the  
meeting was adjourned at 10:54 p.m.

D. Ann Gray, CMC  
Deputy City Clerk

Margaret M. Bowers, CMC  
City Clerk